IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

SHAWN ELIZABETH ANN BASHELOR,

Plaintiff

CIVIL NO. 1:23-CV-00172-RP-SH

v.

UNITED STATES OF AMERICA, Defendant

REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

TO: THE HONORABLE ROBERT PITMAN UNITED STATES DISTRICT JUDGE

Before the Court is Plaintiff Shawn Elizabeth Ann Bashelor's Complaint, filed February 10, 2023 (Dkt. 1). The District Court referred this case to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), Federal Rule of Civil Procedure 72, Rule 1 of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, and the Court Docket Management Standing Order for United States District Judge Robert Pitman. Dkt. 4.

I. Analysis

Plaintiff brings this civil rights action, alleging that legal process was initiated against her without constitutional authority. Plaintiff filed this lawsuit without the payment of the \$402.00 filing fee. On February 10, 2023, the Court ordered Plaintiff to submit either the filing fee or a completed application to proceed *in forma pauperis* by March 12, 2023. Dkt. 3. The Court also warned Plaintiff that failure to comply with the order could result in the dismissal of her case for want of prosecution.

Plaintiff did not timely submit the filing fee or a completed application to proceed *in forma* pauperis. Under Federal Rule of Civil Procedure 41(b), a district court may dismiss an action if a

plaintiff fails to prosecute or comply with any order of court. McCullough v. Lynaugh, 835 F.2d

1126, 1127 (5th Cir. 1988). "The court possesses the inherent authority to dismiss the action sua

sponte, without motion by a defendant." Id. Because Plaintiff failed to abide by the Court's order

and failed to prosecute this case, this lawsuit should be dismissed under Rule 41(b).

II. Recommendation

For the foregoing reasons, the undersigned Magistrate Judge RECOMMENDS that the

District Court **DISMISS** Plaintiff's lawsuit without prejudice pursuant to Rule 41(b).

The Court FURTHER ORDERS the Clerk to REMOVE this case from the Magistrate

Court's docket and **RETURN** it to the docket of the Honorable Robert Pitman.

III. Warnings

The parties may file objections to this Report and Recommendation. A party filing objections

must specifically identify those findings or recommendations to which objections are being made.

The District Court need not consider frivolous, conclusive, or general objections. See Battle v.

United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987). A party's failure to file written

objections to the proposed findings and recommendations contained in this Report within fourteen

(14) days after the party is served with a copy of the Report shall bar that party from de novo

review by the District Court of the proposed findings and recommendations in the Report and,

except on grounds of plain error, shall bar the party from appellate review of unobjected-to

proposed factual findings and legal conclusions accepted by the District Court. See 28 U.S.C.

§ 636(b)(1); Thomas v. Arn, 474 U.S. 140, 150-53 (1985); Douglass v. United Servs. Auto. Ass'n,

79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc).

SIGNED on March 20, 2023.

SUSAN HIGHTOWER

UNITED STATES MAGISTRATE JUDGE

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